

**FORM  
N-328**  
(REV. 2003)

# DROUGHT MITIGATING WATER STORAGE FACILITY TAX CREDIT

Tax  
Year  
**20**\_\_ \_\_

For tax year beginning \_\_\_\_\_, 20\_\_ and ending \_\_\_\_\_, 20\_\_

**ATTACH THIS SCHEDULE TO FORM N-11, N-12, N-15, N-20, N-30, N-35, N-40, OR N-70NP**

SSN OR FEIN

Name

Hawaii G.E./Use Ident. Number

**NOTE: If you are only claiming the tax credit from a flow-through entity, start on line 5.**

	Yes	No
1. Is the water storage facility part of a conservation plan approved by the local soil and water conservation district? If the answer is "No", do not complete the rest of this form. ....	<input type="checkbox"/>	<input type="checkbox"/>
2. Enter the qualifying costs incurred during the taxable year for water storage facility(ies) located in Hawaii .....	<b>2</b>	
3. Enter the amount received through a government grant or subsidy, if any.....	<b>3</b>	
4. Subtract line 3 from line 2 and enter result here .....	<b>4</b>	
5. Flow through of qualifying costs received from other entities, if any. <i>Check box below.</i> Name and Federal Employer I.D. No. of entity		
<input type="checkbox"/> <b>a</b> S corporation shareholder — enter total from Schedule K-1 (Form N-35), line 12m .....		
<input type="checkbox"/> <b>b</b> Partner — enter total from Schedule K-1 (Form N-20), line 24 .....		
<input type="checkbox"/> <b>c</b> Beneficiary — enter total from Schedule K-1 (Form N-40), line 10.....	<b>5</b>	
6. Enter the total qualifying costs incurred during the taxable year for water storage facility(ies) located in Hawaii (Add lines 4 and 5) Also enter this amount on Schedule K for forms N-20 and N-35. Enter beneficiaries' share on Form N-40, Schedule K-1, line 10. ....	<b>6</b>	
7. Tax credit percentage .....	<b>7</b>	4%
8. Drought Mitigating Water Storage Facility Tax Credit— Multiply line 6 by line 7 and enter result here and on Schedule CR, line 19; or enter the estate's or trust's share on Form N-40, Schedule F, line 6 (rounded to the nearest dollar for individual taxpayers) .....	<b>8</b>	

## GENERAL INSTRUCTIONS

Section 235-110.92, Hawaii Revised Statutes (HRS), allows each eligible taxpayer subject to Hawaii's net income tax to claim a refundable drought mitigating water storage facility tax credit of 4 percent of the "qualifying costs" incurred during the taxable year for each qualified water storage facility located in Hawaii.

No tax credit shall be allowed for that portion of the construction or repair costs for which another tax credit was claimed under Hawaii's net income tax law for the taxable year.

If a deduction is taken under Internal Revenue Code (IRC) section 179 (regarding an election to expense certain depreciable business assets) no tax credit shall be allowed for that portion of the construction or repair costs for which the deduction was taken.

The basis of eligible property for depreciation or ACRS purposes for state income taxes shall be reduced by the amount of tax credit allowable and claimed. Alternatively, you may treat the amount of the credit allowable and claimed as taxable income for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

The tax credit is available for taxable years beginning after December 31, 2000, but not for taxable years beginning after December 31, 2005.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualifying costs incurred by the entity for the taxable year. The qualifying costs upon which the tax credit is computed is determined at the entity level. Each partner, S corporation shareholder, or beneficiary of an estate or trust shall separately take into account for its taxable year with or within which the entity's taxable year ends, the partner's, shareholder's, or beneficiary's share of the qualifying costs and resulting tax credit. A partner's share of the qualifying costs shall be determined in accordance with the ratio in which the partners divide the general profits of the partnership. The qualifying costs of the partnership which are subject to a special allocation that is recognized under IRC section 704(a) and (b) shall be recognized for the purposes of this tax credit. Each S corporation shareholder's qualifying costs is the shareholder's allocated share of the S corporation's qualifying costs. A beneficiary's share of the qualifying costs is apportioned between

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the entity and the beneficiaries based on the income of the entity allocable to each. The term "beneficiary" includes an heir, legatee, or devisee.

**Tax credit to be deducted from income tax liability, if any; refunds.** If the tax credit exceeds the taxpayer's income tax liability, the excess of tax credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit shall be made for amounts less than \$1. There shall be no carryback or carryover of excess tax credit over tax liability.

**Time for filing.** All claims for the tax credit must be filed on or before the end of the 12th month following the close of the taxable year for which the tax credit may be claimed. An extension of time for filing a return does not extend the time for claiming the tax credit. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

**Definitions.** For purposes of the tax credit:

"Eligible taxpayer" means a taxpayer who:

- (1) Is a farmer or rancher; and
- (2) Is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for Hawaii state income tax purposes.

An eligible taxpayer does not include a landlord that is not a farmer or rancher or who rents a water storage facility to the farmer or rancher, even though the landlord incurred the costs to build or repair the water storage facility.

"Qualifying costs" means any cost incurred and paid by the taxpayer after December 31, 2000, for the new construction of a qualified water storage facility or the repair or reconstruction of an existing qualified water storage facility, including the costs of new equipment related to the construction or repair of the new or existing qualified water storage facility, but does not include amounts received through grant or subsidy from any federal or state government.

"Qualifying costs" include the cost of building or repair a qualifying water storage facility that was passed directly to the farmer or

rancher by a landlord. The farmer or rancher is the eligible taxpayer to claim the credit. Qualifying costs do not include costs passed on to the farmer or rancher in the form of a rent increase.

"Qualified water storage facility" means a water storage facility that is part of a conservation plan approved by the local soil and water conservation district.

## SPECIFIC INSTRUCTIONS

Enter your tax year in the space provided.

**Line 2** — Enter the qualifying costs incurred during the taxable year for qualified water storage facility(ies) located in Hawaii. Do not include that portion of the costs for which another tax credit was claimed under chapter 235, HRS, for the taxable year. Do not include that portion of the cost for which a deduction is taken under IRC section 179.

**Line 3** — Enter the amount received through a grant or subsidy from the federal or state government.

**Line 5** — Flow through of qualifying costs received from other entities, if any. In the case of a taxpayer who is a member of a pass-through entity (i.e., partnership, S corporation, estate, or trust) and who claims a tax credit for the entity's qualified costs, enter the amount of the costs received from the entity on line 5.

**Line 6** — Estates and trusts: The total cost on line 6 is to be allocated between the estate or trust and the beneficiaries in the proportion of the income allocable to each party. On the dotted line to the left of line 6, enter the cost allocable to the estate or trust with the designation "N-40 PORTION". Attach Form N-328 to the N-40 return and show the distributive share of the costs for each beneficiary.

**Line 8** — Enter the total tax credit claimed for the year on this line and on Schedule CR, Line 19; or enter the estate's or trust's share on Form N-40, Schedule F, line 6. For individual taxpayers, round the amount on line 8 to the nearest dollar.